

U.S. Application No. 10/030,912
Attorney Docket: 1163-0386P
April 26, 2004
Art Unit: 3661

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 4-10 were pending prior to this Reply. In this Reply, claims 6 and 9 have been canceled and claims 11-21 have been added. Claims 4, 8, 11, and 15 are independent.

§ 103 REJECTION - NOMURA, DESAI, KATO

In the February 4, 2004 Office Action, claims 4-7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nomura (USPN 5,371,678) in view of Desai et al. (USPN 5,862,509, hereinafter "Desai"), and Kato et al. (USPN 6,101,443 (hereinafter "Kato")). The rejection with respect to claim 6 has been rendered moot. With regard to claim 4-5 and 7, Applicants respectfully traverse.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P.* 2142. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. See *M.P.E.P.* 2142; *M.P.E.P.*

706.02(j). Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper.

In this instance, claim 4 recites, in part, "selection means which allows a user to select either the optimal route or the route by-passing the road with time restrictions." As will be demonstrated below, none of the cited references Nomura, Desai, and Kato may be relied upon to teach or suggest at least this feature.

More specifically, Nomura is directed toward a system and method for navigating a vehicle along a set route of travel in which an optimum route of travel from a starting point of the vehicle to a destination can be set. *See column 1, lines 7-10.* Nomura discloses that an optimum route of travel is calculated based on start and destination points taking into account limitations related to the road such as one-way traffic and inhibition of right and left turns. *See column 4, lines 31-36.*

During travel, external factors - such as traffic limitation information, traffic jam information, traffic accident information, and road construction information - may be taken into account to calculate a new optimum route of travel.

See column 4, lines 41-48. During the calculation of optimum routes, the calculation block 23 (see Fig. 1) calculates a predicted time at which the vehicle would pass through each road node of the calculated optimum path. See column 4, lines 55-59; Fig. 4 and Fig. 5. During travel, at a particular node, if the actual time and the predicted time are outside of a predetermined tolerance level, a new optimum route is calculated. See Fig. 3, steps S11 and S21; column 7, line 56-column 8, line 36. When the new route is calculated, the new route is displayed. See Fig. 3, step S5. Thus, Nomura may be described as always dynamically calculating the most optimum route and displaying the optimum route to the user.

However, Momura is completely silent regarding providing a user with a choice of routes and allowing the user to choose among the available routes. Therefore, Nomura cannot be relied upon to teach or suggest "selection means which allows a user to select either the optimal route or the route by-passing the road with time restrictions" as claimed in claim 4.

Desai is similarly deficient. Once the start and destination information is received, Desai discloses that an

"optimum route" is chosen and displayed. Desai does disclose that during the determination of the optimum route, multiple potential routes are determined and stored. However, these routes are determined without regard to timed turn restrictions (TTR) or timed lane restrictions (TLR). See Desai, Figures 6A, 7A, 8A, and 9A and corresponding descriptions. Further, Desai indicates that the optimum route is chosen among potential routes after taking into consideration TTRs and TLRs, and then the optimum route is displayed to the user.

Thus, like Momura, Desai is completely silent regarding providing a user with a choice of routes and allowing the user to choose among the available routes. Therefore, Desai cannot be relied upon to teach or suggest "selection means which allows a user to select either the optimal route or the route by-passing the road with time restrictions" as claimed in claim 4.

Kato is similar to Nomura and also suffers from similar deficiencies as Nomura and Desai. Like Nomura, Kato continually recalculates a new optimum route based on either data from vehicle information communication system (VICS) or the automobile traffic information system (ATIS). See Kato, column

1, lines 21-26; column 2, lines 38-48. Based on the information from the VICS, a judgment is made whether change the route or not. See Kato, Figure 1A and column 4, line 34 - column 5, line 3. If the route is changed, then both before-the-change route and the after-the-change route are displayed. See Kato, Figure 13; column 16, lines 18-21.

In other words, Kato simply "chooses" the new route and displays the new route to the user along with the unavailable old route. Kato is completely silent regarding providing a user with a choice of routes and allowing the user to choose among the available routes. Therefore, Kato cannot be relied upon to teach or suggest "selection means which allows a user to select either the optimal route or the route by-passing the road with time restrictions" as claimed in claim 4.

It is clear that none of Nomura, Desai, and Kato may be relied upon to show the above-recited feature. Then it logically follows that the combination of Nomura, Desai, and Kato also cannot be relied upon. Therefore, independent claim 4 is distinguishable over the combination of Nomura, Desai, and Kato.

Claims 5 and 7 depend from independent claim 4. Therefore, for at least the reasons stated with respect to claim 4 as well as on their own merits, these dependent claims are also distinguishable over the combination of Nomura, Desai, and Kato.

Applicants respectfully request that the rejection of claims 4-5 and 7 based on Nomura, Desai, and Kato be withdrawn.

§ 103 REJECTION - NOMURA, SHISHIDO

In the February 4, 2004 Office Action, claim 8 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nomura in view of Shishido (USPN 5,842,146). Applicants respectfully traverse.

In this instance, independent claim 8 recites, in part, "setting means allowing a user to determine whether or not to avoid traveling on roads with time restrictions." Nomura fails to teach or suggest at least this feature.

As explained above, Nomura calculates and dynamically recalculates the optimum route from start to destination. However, Nomura is silent regarding allowing the user to choose to avoid roads with time restrictions. Therefore, Nomura cannot

be relied upon to teach or suggest "setting means allowing a user to determine whether or not to avoid traveling on roads with time restrictions."

Shishido fails as well. Shishido discloses that the system recalculates a good route 410 based on time restriction information. See *Shishido*, column 4, lines 28-35. There is no user choice. Therefore, Shishido cannot be relied upon to teach or suggest "setting means allowing a user to determine whether or not to avoid traveling on roads with time restrictions."

It is clear that neither Nomura nor Shishido may be relied upon to show the above-recited feature. Then it logically follows that the combination of Nomura and Shishido also cannot be relied upon. Therefore, independent claim 8 is distinguishable over the combination of Nomura and Shishido.

Applicants respectfully request that the rejection of claim 8 based on Nomura and Shishido be withdrawn.

§ 103 REJECTION - NOMURA, SHISHIDO, KATO

In the February 4, 2004 Office Action, claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over Nomura in view of Shishido and in further view of Kato. With regard to claim 9, the rejection has been rendered moot. With regard to claim 10, Applicants respectfully traverse.

It is noted that claim 10 depends from independent claim 8. It also been shown that claim 8 is distinguishable over the combination of Nomura and Shishido. Kato has not been, and indeed cannot be, relied upon to cure at least the above-noted deficiencies of Nomura and Shishido. Therefore, claim 8 is distinguishable over the combination of Nomura, Shishido, and Kato.

For at the dependency there on as well as on its own merits, claim 10 is also distinguishable over the combination of Nomura, Shishido, and Kato.

Applicants respectfully request that the rejection of claim 10 based on Nomura, Shishido, and Kato be withdrawn.

NEW CLAIMS

By this Reply, claims 11-21 have been added. Applicants respectfully submit that the new claims are distinguishable over

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all cited prior art of record, individually or in any combination. Applicants respectfully request that the new claims be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

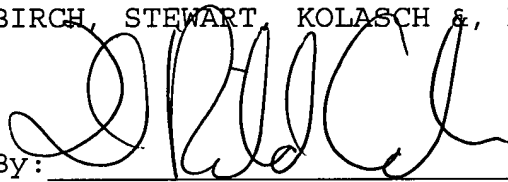
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional

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fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly,
extension of time fees.

Respectfully submitted,

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